

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**DEANDRE JOHNSON, #1999377,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 2:22cv529**

**HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,**

**Respondent.**

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254 filed by pro se Petitioner Deandre Johnson (“Johnson” or “Petitioner”). Johnson’s petition asserts that earned sentence credits (ESC) were taken from him without notice or just cause, and he seeks restoration of the lost credits. Am. Pet. at 4, 6–7, ECF No. 4.<sup>1</sup>

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Because Petitioner’s level reclassification did not invalidate his confinement or necessarily increase the length of his confinement, the Report and Recommendation of the Magistrate Judge filed June 27, 2023, recommends that Respondent’s Motion to Dismiss be granted and Johnson’s petition be dismissed without prejudice. R. & R. at 2, 8, ECF No. 20. The Report and Recommendation also advised parties of their right to object and the time limit for doing so. *Id.* at 8. On July 3, 2023, the Court received Petitioner’s objections to the Report and Recommendation. Pet’r’s Obj., ECF No. 21. The Respondent did not reply to the Objections, and the time for doing so has now expired.

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<sup>1</sup> The Court employs the pagination assigned by the CM/ECF docketing system for citations to Petitioner’s submissions.

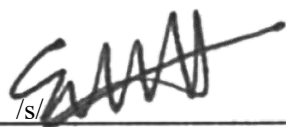
The Court, having reviewed the record and examined the objections filed by Petitioner to the Magistrate Judge's Report and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed June 27, 2023, and it is, therefore, ORDERED that Respondent's Motion to Dismiss (ECF No. 15) is GRANTED, Johnson's Petition and Motion for Summary Judgment (ECF Nos. 1, 18) are DENIED and DISMISSED with prejudice, and judgment shall be entered in favor of the Respondent.

Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is DENIED. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is ADVISED that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final Order to counsel of record for Respondent.

Norfolk, Virginia  
March 14, 2024

  
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ELIZABETH W. HANES,  
UNITED STATES DISTRICT JUDGE